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MONTANA LEGISLATIVE HISTORY

Chapter 318 Session L 1983
Bill House 857 Senate ____

History and final status sheet X
Introduced bill X
Fiscal note X
Third reading bill X
Final version of bill X

House Committee on Judiciary
Hearing date(s)* 2-21 ____
____ ____
Executive action (vote) date(s)* 2-21
Comm. Report 2-21
Floor 2nd reading & vote 2-23
Floor 3rd reading & vote 2-23

Senate Committee on Judiciary
Hearing date(s)* 3-17 ____
____ ____
Executive action (vote) date(s)* 3-17
Comm. Report 3-17
Floor 2nd reading & vote 3-19
Floor 3rd reading & vote 3-22

Conference or Free Conference Comm. ____ Yes X No
Hearing date(s)* ____
Executive action (vote) date(s)* ____

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? ____ Yes X No
Committee ____ Report ____

NOTES: Authorizing Mutual Aid Agreement Among Law Enforcement Agencies of This and Other States and the United States

State Law Library of Montana

Compiled by: rg
Date: 4-15-2016

3RD READING: 02/23/83, DO PASS AYES: 99; NAYS: 1

TRANSMITTED TO SENATE: 02/23/83
REFERRED TO COMMITTEE ON JUDICIARY: 3/1/83
HEARING: 3/19/83
REPORT: 03/19/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/22/83 AYES: 49; NAYS: 0
3RD READING: 03/24/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 3/24/83
2ND READING: 03/31/83, BE CONCURRED IN AYES: 90; NAYS: 0
3RD READING: 04/01/83, BE CONCURRED IN AYES: 86; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/12/83
SIGNED: 04/14/83, CHAPTER 511

856 -- BERGENE, VINCENT -- TO ALLOW AN ORDER OF LIMITED EMANCIPATION TO BE GRANTED TO A YOUTH WHO IS 16 YEARS OF AGE OR OLDER AND WHO IS FOUND TO BE ABUSED, NEGLECTED, OR DEPENDENT; AMENDING ....

INTRODUCED: 02/15/83
REFERRED TO COMMITTEE ON HUMAN SERVICES: 02/15/83
HEARING: 2/21/83
REPORT: 02/21/83, DO PASS
2ND READING: 02/22/83, DO PASS, AS AMENDED AYES: 99; NAYS: 0
3RD READING: 02/23/83, DO PASS AYES: 100; NAYS: 0

TRANSMITTED TO SENATE: 02/23/83
REFERRED TO COMMITTEE ON JUDICIARY: 3/1/83
HEARING: 3/23/83
REPORT: 03/25/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/26/83 AYES: 48; NAYS: 0
3RD READING: 03/28/83 AYES: 45; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 3/28/83
2ND READING: 04/04/83, BE CONCURRED IN AYES: 90; NAYS: 0
3RD READING: 04/05/83, BE CONCURRED IN AYES: 98; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/14/83
SIGNED: 04/18/83, CHAPTER 564

857 -- ABRAMS, SPAETH, PAVLOVICH -- AUTHORIZING MUTUAL AID AGREEMENTS AMONG LAW ENFORCEMENT AGENCIES OF THIS AND OTHER STATES AND THE UNITED STATES; SPECIFYING AUTHORITY OF LAW ENFORCEMENT OFFICERS AND AGENCIES; CLARIFYING THE EFFECT OF AGREEMENTS ON LEGAL DUTIES OF LAW ENFORCEMENT AGENCIES; PROVIDING FOR APPROVAL AND FILING OF AGREEMENTS; AUTHORIZING AGENCY COMMITMENT OF FUNDS, PERSONNEL, AND EQUIPMENT FOR PURPOSES OF AGREEMENTS; ....
BY REQUEST OF: THE DEPARTMENT OF JUSTICE

INTRODUCED: 02/15/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/15/83.
HEARING: 2/21/83
REPORT: 02/21/83, DO PASS
2ND READING: 02/23/83, DO PASS AYES: 95; NAYS: 1
3RD READING: 02/23/83, DO PASS AYES: 92; NAYS: 1

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TRANSMITTED TO SENATE: 02/23/83
REFERRED TO COMMITTEE ON JUDICIARY: 3/1/83
HEARING: 3/17/83
REPORT: 03/17/83, BE CONCURRED IN
2ND READING: 03/19/83 AYES: 49; NAYS: 0
3RD READING: 03/22/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE: 3/22/83

TRANSMITTED TO GOVERNOR: 03/28/83
SIGNED: 03/31/83, CHAPTER 318

HB 858 -- HAND, PAVLOVICH, ZABROCKI, ET AL. -- INCREASING THE DISCOUNT ALLOWED FOR AFFIXING TAX INSIGNIA TO CIGARETTE PACKAGES; CORRECTING A PRIOR LEGISLATIVE OVERSIGHT; AMENDING ....

INTRODUCED: 02/15/83
REFERRED TO COMMITTEE ON TAXATION: 02/15/83
HEARING: 3/3/83
REPORT: 03/22/83, DO PASS, AS AMENDED
2ND READING: 03/24/83, DO PASS AYES: 75; NAYS: 2
3RD READING: 03/25/83, DO PASS AYES: 94; NAYS: 1

TRANSMITTED TO SENATE: 3/25/83
REFERRED TO COMMITTEE ON TAXATION: 03/26/83
HEARING: 4/1/83
REPORT: 04/01/83, BE CONCURRED IN
2ND READING: 04/05/83 AYES: 27; NAYS: 12
3RD READING: 04/06/83 AYES: 36; NAYS: 13

RETURNED TO HOUSE: 4/6/83

TRANSMITTED TO GOVERNOR: 04/15/83
SIGNED: 4/19/83, CHAPTER 600

HB 859 -- WALDRON -- TO GENERALLY STANDARDIZE NOTICE REQUIREMENTS RELATING TO THE CONDUCT OF BUSINESS OF LOCAL GOVERNMENT UNITS OTHER THAN MUNICIPALITIES; AMENDING ...

INTRODUCED: 02/15/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 02/15/83
HEARING: 2/19/83
REPORT: 02/21/83, DO PASS, AS AMENDED
2ND READING: 02/22/83, DO PASS AYES: 91; NAYS: 7
3RD READING: 02/23/83, DO PASS AYES: 94; NAYS: 5

TRANSMITTED TO SENATE: 02/23/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 3/1/83
HEARING: 3/12/83
DIED IN SENATE COMMITTEE

HB 860 -- FAGG -- REVISING THE LAWS GOVERNING THE ESTIMATED INCOME TAX; PROVIDING FOR QUARTERLY PAYMENTS; ELIMINATING THE FARMER, RANCHER, OR STOCKMAN EXCLUSION; PROVIDING PENALTIES; AMENDING ....

INTRODUCED: 02/15/83
REFERRED TO COMMITTEE ON TAXATION: 02/15/83
HEARING: 3/8/83

HOUSE BILL NO. 857

INTRODUCED BY Abrams Arnold Pachl

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUTUAL AID AGREEMENTS AMONG LAW ENFORCEMENT AGENCIES OF THIS AND OTHER STATES AND THE UNITED STATES; SPECIFYING AUTHORITY OF LAW ENFORCEMENT OFFICERS AND AGENCIES; CLARIFYING THE EFFECT OF AGREEMENTS ON LEGAL DUTIES OF LAW ENFORCEMENT AGENCIES; PROVIDING FOR APPROVAL AND FILING OF AGREEMENTS; AUTHORIZING AGENCY COMMITMENT OF FUNDS, PERSONNEL, AND EQUIPMENT FOR PURPOSES OF AGREEMENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 12] shall be known and may be cited as the "Interstate Law Enforcement Mutual Aid Act".

Section 2. Purpose. It is the purpose of [sections 1 through 12] to permit one or more law enforcement agencies of this state to enter into mutual aid agreements, on the basis of mutual advantage, with one or more law enforcement agencies of any other state or the United States in order to facilitate and coordinate efficient, cooperative enforcement efforts directed at mutual law enforcement problems

transcending jurisdictional boundaries and to insure the prompt and effective delivery of law enforcement and emergency services in areas that, due to geographic remoteness, population sparsity, and economic and other factors are in need of an increased law enforcement presence.

Section 3. Definitions. When used in [sections 1 through 12], unless the context requires otherwise, the following definitions apply:

(1) "Law enforcement agency" means a public agency lawfully established by statute or executive order that is responsible for the prevention and detection of crime and the enforcement of penal, traffic, regulatory, or game laws.

(2) "Law enforcement agency of this state" or "law enforcement agency of another (or any other) state" includes, respectively, a law enforcement agency of a political subdivision of this state and a law enforcement agency of a political subdivision of another state.

(3) "Mutual aid agreement" or "agreement" means an agreement between two or more law enforcement agencies, consistent with the purposes of [sections 1 through 12].

(4) "Party law enforcement agency" means a law enforcement agency that is a party to a mutual aid agreement as set forth in [sections 1 through 12].

(5) "Peace officer" has the meaning as the term is

defined in 46-1-201.

Section 4. Authorization to enter agreement -- general content -- authority of peace officer. (1) Any one or more law enforcement agencies of this state may enter into a mutual aid agreement with any one or more law enforcement agencies of any other state or the United States to provide the law enforcement or emergency services that all of the parties are authorized by law to perform. If required by applicable law, the agreement must be authorized and approved by the governing body of each party to the agreement.

(2) The agreement must fully set forth the powers, rights, and obligations of the parties to the agreement.

(3) Subject to [section 8], a mutual aid agreement may grant a peace officer of any party law enforcement agency acting within the territorial jurisdiction of any other party law enforcement agency authority to act as if he were a duly appointed and qualified peace officer of the law enforcement agency he is assisting.

Section 5. Detailed content of agreement. The agreement authorized by [section 4] must specify the following:

(1) its duration;

(2) the precise organization, composition, and nature of any separate legal entity created thereby;

(3) the purpose of the agreement;

(4) the manner of financing the agreement and establishing and maintaining a budget therefor;

(5) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(6) provision for administering the agreement, which may include creation of a joint board responsible for such administration;

(7) the manner of acquiring, holding, and disposing of real and personal property used in the agreement;

(8) the minimum standards for law enforcement personnel implementing the provisions of the agreement;

(9) the respective liability of each party to the agreement for the actions of law enforcement officers when acting under the provisions of the agreement;

(10) the minimum insurance required of each party to the agreement;

(11) the exact chain of command or delegation of authority to be followed by law enforcement officials acting under the provisions of the agreement;

(12) the precise enforcement authority that the peace officers of each party law enforcement agency may exercise; and

(13) any other necessary and proper matters.

Section 6. Right of state in actions involving agreements. In any case or controversy involving performance or interpretation of or liability under a mutual aid agreement entered into between one or more law enforcement agencies of political subdivisions of this state and one or more law enforcement agencies of another state or of the United States, the parties to the agreement are the real parties in interest. This state may maintain an action against any law enforcement agency whose default, failure, performance, or other conduct caused or contributed to any liability incurred by this state.

Section 7. Agreement not to relieve agency of duties. No agreement made under [sections 1 through 12] may relieve any law enforcement agency of this state of any duty imposed upon it by law. Timely performance of such a duty by a joint board or other legal or administrative entity created by a mutual aid agreement may be offered in satisfaction of the duty.

Section 8. Limitation of powers. Except for the right granted by [sections 1 through 12] to jointly exercise powers, [sections 1 through 12] do not authorize any law enforcement agency of this state to exercise any power that it is not otherwise authorized to exercise.

Section 9. Submission of agreement to attorney

general. (1) As a condition precedent to an agreement becoming effective under [sections 1 through 12], the agreement must be submitted to and receive the approval of the attorney general of Montana.

(2) The attorney general shall approve an agreement submitted to him under [sections 1 through 12] unless he finds that it is not in proper form, does not meet the requirements set forth in [sections 1 through 12], or otherwise does not conform to the laws of Montana. If he disapproves an agreement, he shall provide a detailed, written statement to the governing bodies of the party law enforcement agencies.

(3) If the attorney general does not disapprove an agreement within 60 days after its submission to him, it is considered approved by him.

Section 10. Filing of agreement. Within 20 days after approval by the attorney general, an agreement made pursuant to [sections 1 through 12] must be filed in the office of:

(1) each clerk and recorder of each county of this state where the principal office of one of the parties to the agreement is located; and

(2) the secretary of state.

Section 11. Authorization to appropriate funds for purpose of agreement. Any law enforcement agency of this state may appropriate funds for and may sell, lease, or

otherwise supply material to any entity created for the purpose of performance of an agreement and may provide such personnel or services therefor as are within its authority to furnish.

Section 12. Effect of other law. The procedures and remedies provided in [sections 1 through 11] apply to the exclusion of those remedies and procedures for interlocal agreements generally under Title 7, chapter 11, part 1.

Section 13. Effective date. This act is effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 487-83

FISCAL NOTE

Form BD-15

compliance with a written request received February 19, , 19 83 , there is hereby submitted a Fiscal Note House Bill 857 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

kground information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 857 authorizes mutual aid agreement among law enforcement agencies of this and other states and the United States; specifies authority of law enforcement officer's and agencies; clarifies the effect of agreements on legal duties of law enforcement agencies; provides for approval and filing of agreements; authorizes agency commitmenet of funds, personnel, and equipment for purposes of agreements; and provides an immediate effective date.

FISCAL IMPACT:

None.

FISCAL NOTE: 16:CC/1

David M. Lewis

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2-21-83

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STATUS SHEET

JUDICIARY COMMITTEE

48 Legislature

ill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
848	Providing for prejudgment interest at the rate of 10 percent a year on a judgment greater, etc.	2/15/83	Rep. Menahan	2/21/83	Table	2/21/83
854	To authorize the use of certain mechanical or electronic machines for playing poker, etc.	2/15/83	Rep. Pavlovich	2/21/83	Table	2/21/83
855	To revise Montana's probate code with respect to renumciation of succession, etc.	2/15/83	Rep. Ramirez	2/21/83	Do Pass	2/21/83
857	Authorizing mutual aid agreements among law enforcement agencies, etc.	2/15/83	Rep. Abrams	2/21/83	Do Pass	2/21/83
875	Creating a real estate recovery account for the payment of unsatisfied judgments against real estate salesmen and brokers, etc.	2/15/83	Rep. S.J. Hansen	2/21/83	Table	2/21/83

orm CS-32
-81

MINUTES OF THE JUDICIARY COMMITTEE
February 21, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown in room 224A of the Capitol building at 7:03 a.m. All members were present as was Ms. Brenda Desmond, Staff Attorney for the Legislative Council.

HOUSE BILL 854

REPRESENTATIVE PAVLOVICH, District 86, Butte, explained that this was a bill to authorize the use of certain mechanical or electronic machines for playing poker and he asked that the committee table this bill at the request of the county attorneys.

KATHY CAMPBELL, representing the Montana Association of Churches, stated that they opposed this bill. See EXHIBITS A and B.

SHIRLEY SHEETS, representing herself, also testified that she opposed this bill.

REPRESENTATIVE DAILY made a motion to TABLE this bill. The motion was seconded by REPRESENTATIVE KEYSER. The motion carried unanimously.

HOUSE BILL 816

CHAIRMAN BROWN explained this action was per previous agreement when Representative Curtiss' bill was tabled as the committee wanted to wait until the Supreme Court's decision impending gambling cases.

REPRESENTATIVE KEMMIS testified that this bill restricts the application of the exclusionary rule and replaces the exclusionary rule with other mechanisms. He explained that the bill contains provisions for civil liability for violations of search and seizure law. He stated that he is convinced that if we are to replace the exclusionary rule with anything, that what we need is an effective deterrent to illegal police action; and the best way would be to involve the cities and counties. He felt that if cities and counties know that they may be subject to extensive damages, including damages for emotional distress and invasion of constitutional rights, then they will be motivated to involve themselves in this kind of police action that is the best protection of individual rights. He advised that the list of damages were on the bottom of page 2 and the top of page 3.

on that search, but if it were the wrong house or the wrong neighborhood, civil remedies would be available. MS. GRAY replied that she thought he was right.

CHAIRMAN BROWN explained that they would hold the hearing open on this bill as it was scheduled to start at 8:00 instead of 7:00, in case there were other people who wanted to testify.

HOUSE BILL 857

REPRESENTATIVE ABRAMS, District 56, stated that this bill was at the request of the Department of Justice and is an act which authorizes mutual aid agreements among law enforcement agencies of this and other states and the United States.

COLONEL ROBERT LANDON, Chief Administrator of the Highway Patrol Division, testified that they need this bill because they need to assist each other in bordering states and sometimes need to have help from several agencies in Montana. He explained the situation in Cooke City where the road winds between Montana and Wyoming and where the officers in Wyoming could respond to problems in Cooke City.

STEVE JOHNSON, Assistant Attorney General, offered testimony in support of this bill. See EXHIBIT D.

There were no further proponents and no opponents.

REPRESENTATIVE ABRAMS closed.

CHAIRMAN BROWN questioned if it would be possible under this bill for the highway patrolmen to more stiffly enforce the 55-mile-an-hour speed limit. MR. JOHNSON replied that this was not in the agreement.

REPRESENTATIVE KEYSER asked if this provides for the state to enter into an agreement with the U.S. government. MR. JOHNSON replied that it did not.

REPRESENTATIVE KEYSER asked about an agreement with the Park Service and MR. JOHNSON replied that this would establish the general framework if both parties are willing to enter into it.

There were no further questions and the hearing on this bill was closed.

REPRESENTATIVE CURTISS questioned MS. LAKE wondering if they would object if they added another "Whereas", stating that the legislature does not have adequate information on the scope of potential impact on insurance rates for all parties. MS. LAKE replied that they fundamentally believe that the legislature does have the information they need to pass this kind of legislation.

There were no further questions and the hearing on this bill was closed.

EXECUTIVE SESSION

HOUSE BILL 857

REPRESENTATIVE HANNAH moved that this bill DO PASS, seconded by REPRESENTATIVE JENSEN.

CHAIRMAN BROWN asked REPRESENTATIVE KEYSER if he saw any problems with this bill beyond the scope of Cooke City. REPRESENTATIVE KEYSER replied that it will probably help Cooke City, it will probably help 191, where they have had some problems investigating accidents and he thought it would even help on the Idaho border. He stated that there were strong restrictions and if there was any expansion, he would be opposed to it.

REPRESENTATIVE CURTISS questioned on page 5, line 9, where it says "This state may maintain an action against any law enforcement agency" if this would cause any problems. REPRESENTATIVE KEYSER replied that he thought they were entering into an agreement with another state, but the state maintains the right to bring an action against that state agency for any failure that might be done.

REPRESENTATIVE EUDAILY wondered why they need to appropriate funds. REPRESENTATIVE IVERSON replied that that is not a state appropriation.

Exhibit D
HB 857
2/21/83

TESTIMONY OF STEVE JOHNSON

ASSISTANT ATTORNEY GENERAL

RE: H.B.857

House Bill 857 authorizes Montana law enforcement agencies to enter into cooperative agreements with law enforcement agencies in other states to solve common enforcement problems. It is enabling legislation which allows a flexible approach to enforcement problems transcending jurisdictional boundaries.

A major benefit of this legislation is to be found in the authority it would grant to regional or state law enforcement agencies such as county sheriffs' offices and the Highway Patrol to cooperate with law enforcement agencies of bordering states to provide a coordinated, efficient plan for responding to enforcement emergecies in remote border areas of the state.

Montana law currently allows state and local law enforcement agencies within the State of Montana to assist other Montana law enforcement agencies. Title 44,ch. 11, pts. 1 and 2, MONTANA CODE ANNOTATED (MCA). It does not, however, authorize cooperative agreements with, assistance to, or assistance from lawenforcement

agencies of other states. H.B. 857 would supply that authorization.

The bill does not itself spell out specific provisions to be incorporated into every mutual aid agreement. It does, however, spell out the specific general areas of agreement upon which participating law enforcement agencies must negotiate and which they must provide for. Section 5 of the bill requires that the parties bargain with each other and make specific provision for the duration, organization, chain of command, and scope and termination of joint operations as well as for the enforcement authority and qualification level of participating law enforcement officers, responsibility for expenses, and the respective liability of each agency for damages or injury caused by joint operations.

In allowing the parties to negotiate the specifics of a cooperative agreement rather than imposing specific provisions on the parties, the bill attempts to guarantee flexibility to various state and local law enforcement agencies to tailor agreements to local needs and to situations that cannot be easily anticipated today. In this regard, H.B. 857 follows the model of Montana's State-Tribal Cooperative Agreements Act (Title 18, ch. 11, pt. 1, MCA) and the state Interlocal Cooperation Act (Title 7, ch. 11, pt. 1, MCA). Like

those two acts H.B. 857 requires contracting agencies to set forth fully in writing the powers, rights, obligations, and responsibilities of each party to the agreement. It provides for review and approval of agreements by local governing bodies and by the attorney general. In addition, it directs that all such agreements be filed with the secretary of state and, in the case of an agreement entered into by a local law enforcement agency, with the clerk and recorder of each affected county.

H.B. 857 would allow the Montana Highway Patrol to enter into an agreement with the highway patrol forces of bordering states whereby a patrol officer of one state would be authorized to respond to a traffice emergency across the border in a neighboring state if that officer could respond more quickly than officers of the neighboring state. Reciprocal ageements of that type would decrease response time and make efficient use of resources without increasing the operating budgets of the law enforcement agencies involved.

Section 8 of the bill prohibits law enforcement agencies from exercising any powers under a mutual aid agreement that they are not otherwise authorized by law to exercise. The Montana Highway Patrol is, by statute, limited to traffic control. Under H.B. 857 it could not expand its powers beyond the area of traffic enforcement.

In explicit terms the "Compact Clause" (art. I, §10, cl. 3, U.S. CONST.) of the Federal Constitution forbids any state of the Union, without the consent of Congress, to enter into any agreement or compact with another state. Congress has given its advance consent by statute to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and the enforcement of their respective criminal laws and policies. 4 U.S.C. §112.

Under cases decided by the United States Supreme Court, the meaning of interstate compacts is a question of federal law. It cannot be unilaterally nullified nor be given its final meaning by a court or other organ of the contracting states. West Virginia ex. rel.Dyer v.Sims, 341 U.S. 22 (1951). Final power to pass on the meaning and validity of an interstate compact is the United States Supreme Court.

Similarly, a state and the United States may enter into compacts. The authority for a state to enter into a contract with the United States is derived from the Constitution of the United States. ANTLE v. TUCHBREITER, 414 Ill. 571, 111 NE2d 836 (1953).

Section 6 of the bill provides for the state to be indemnified if it incurs liability due to the conduct of a local law enforcement agency that has entered into a mutual aid agreement with an out-of-state agency.

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

BILL HB 857 Date Feb. 21, 1983

SPONSOR Rep. Abrams

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
L. R. W. Landon	Highway Patrol	→	X	
John Maynard	Attorney General		X	
Steve Johnson	Atty Gen's Office		X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

February 21 19 83

MR. SPEAKER

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 858

First reading copy (White)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUTUAL AID AGREEMENTS AMONG LAW ENFORCEMENT AGENCIES OF THIS AND OTHER STATES AND THE UNITED STATES; SPECIFYING AUTHORITY OF LAW ENFORCEMENT OFFICERS AND AGENCIES; CLARIFYING THE EFFECT OF AGREEMENTS ON LEGAL DUTIES OF LAW ENFORCEMENT AGENCIES; PROVIDING FOR APPROVAL AND FILING OF AGREEMENTS; AUTHORIZING AGENCY COMMITMENT OF FUNDS, PERSONNEL, AND EQUIPMENT FOR PURPOSES OF AGREEMENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 857

DO PASS

Dave Brown, Chairman.

STATE PUB. CO.
Helena, Mont.

SJR 18, introduced by E. Smith, Etchart, Kolstad, et al.

MOTIONS

Representative Bengtson moved that her vote on HB 359, third reading on the 44th legislative day, be recorded as no. Motion carried.

Representative Ramirez moved that HB 120 be referred to the Committee on Appropriations. Motion carried.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Representative Vincent moved that the House resolve itself into a Committee of the Whole, for the consideration of business on second reading. Motion carried. Representative Metcalf in the Chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 857 - That HB 857 do pass. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, J. Brown, Compton, Connelly, Curtiss, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, Pavlovich, Peck, Phillips, Pistoria, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 95

Noes: D. Brown.
Total 1

Excused: O'Connell.
Total 1

Absent or not voting: Daily, Menahan, Quilici.
Total 3

HB 862 - That HB 862 do pass. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 96

Noes: Jones, Marks, Ramirez.
Total 3

3rd Reading

Excused: Hannah, Harp, Nilson, Shontz, Switzer, Waldron.
Total 6

Absent or not voting: Nordtvedt.
Total 1

HB 857 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hansen, Hanson, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Seifert, Smith, Solberg, Spaeth, Stobie, Swift, Thoft, Underdal, Veleber, Vincent, Vinger, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 92

Noes: D. Brown.
Total 1

Excused: Hannah, Harp, Nilson, Shontz, Switzer, Waldron.
Total 6

Absent or not voting: Nordtvedt.
Total 1

HB 861 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hansen, Hanson, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Seifert, Smith, Solberg, Spaeth, Stobie, Swift, Thoft, Underdal, Veleber, Vincent, Vinger, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 92

Noes: Brand.
Total 1

Excused: Hannah, Harp, Nilson, Shontz, Switzer, Waldron.
Total 6

Absent or not voting: Nordtvedt.
Total 1

HB 879 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Donaldson, Dozier, Driscoll, Fabrega, Fagg, Farris, Hammond, Hand, Hansen, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kennerly, Kitselman, Lybeck,

48th LEGISLATIVE SESSION

COMMITTEE ON Senate Judiciary

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
774	3-2-83	3-16-83	3-16-83				3-16-83		
789	3-2-83	3-21-83	3-21-83				3-21-83		
807	3-2-83	3-17-83	3-17-83				3-17-83		
808	3-2-83	3-15-83	TABLED						
811	3-2-83	3-21-83	3-21-83				3-21-83		
812	3-2-83	3-21-83	3-21-83					3-21-83	
825	3-2-83	3-11-83	3-12-83					3-12-83	
825	3-17-83	3-17-83	3-17-83					3-17-83	
855	3-2-83	3-19-83	3-19-83					3-19-83	
856	3-1-83	3-23-83	3-24-83					3-24-83	
857	3-1-83	3-17-83	3-17-83				3-17-83		
879	3-1-83	RE-REFERRED TO EDUCATION							
880	3-1-83	3-23-83	3-24-83					3-24-83	

(Use Separate Sheet for Senate, House Bills, and Resolutions)

HOUSE BILL NO. 857

INTRODUCED BY Abrams Smith Pecht

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUTUAL AID AGREEMENTS AMONG LAW ENFORCEMENT AGENCIES OF THIS AND OTHER STATES AND THE UNITED STATES; SPECIFYING AUTHORITY OF LAW ENFORCEMENT OFFICERS AND AGENCIES; CLARIFYING THE EFFECT OF AGREEMENTS ON LEGAL DUTIES OF LAW ENFORCEMENT AGENCIES; PROVIDING FOR APPROVAL AND FILING OF AGREEMENTS; AUTHORIZING AGENCY COMMITMENT OF FUNDS, PERSONNEL, AND EQUIPMENT FOR PURPOSES OF AGREEMENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 12] shall be known and may be cited as the "Interstate Law Enforcement Mutual Aid Act".

Section 2. Purpose. It is the purpose of [sections 1 through 12] to permit one or more law enforcement agencies of this state to enter into mutual aid agreements, on the basis of mutual advantage, with one or more law enforcement agencies of any other state or the United States in order to facilitate and coordinate efficient, cooperative enforcement efforts directed at mutual law enforcement problems

LC 1220/01

transcending jurisdictional boundaries and to insure the prompt and effective delivery of law enforcement and emergency services in areas that, due to geographic remoteness, population sparsity, and economic and other factors are in need of an increased law enforcement presence.

Section 3. Definitions. When used in [sections 1 through 12], unless the context requires otherwise, the following definitions apply:

(1) "Law enforcement agency" means a public agency lawfully established by statute or executive order that is responsible for the prevention and detection of crime and the enforcement of penal, traffic, regulatory, or game laws.

(2) "Law enforcement agency of this state" or "law enforcement agency of another (or any other) state" includes, respectively, a law enforcement agency of a political subdivision of this state and a law enforcement agency of a political subdivision of another state.

(3) "Mutual aid agreement" or "agreement" means an agreement between two or more law enforcement agencies, consistent with the purposes of [sections 1 through 12].

(4) "Party law enforcement agency" means a law enforcement agency that is a party to a mutual aid agreement as set forth in [sections 1 through 12].

(5) "Peace officer" has the meaning as the term is

THIRD READING
HB 857

defined in 46-1-201.

Section 4. Authorization to enter agreement -- general content -- authority of peace officer. (1) Any one or more law enforcement agencies of this state may enter into a mutual aid agreement with any one or more law enforcement agencies of any other state or the United States to provide the law enforcement or emergency services that all of the parties are authorized by law to perform. If required by applicable law, the agreement must be authorized and approved by the governing body of each party to the agreement.

(2) The agreement must fully set forth the powers, rights, and obligations of the parties to the agreement.

(3) Subject to [section 8], a mutual aid agreement may grant a peace officer of any party law enforcement agency acting within the territorial jurisdiction of any other party law enforcement agency authority to act as if he were a duly appointed and qualified peace officer of the law enforcement agency he is assisting.

Section 5. Detailed content of agreement. The agreement authorized by [section 4] must specify the following:

(1) its duration;

(2) the precise organization, composition, and nature of any separate legal entity created thereby;

(3) the purpose of the agreement;

(4) the manner of financing the agreement and establishing and maintaining a budget therefor;

(5) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(6) provision for administering the agreement, which may include creation of a joint board responsible for such administration;

(7) the manner of acquiring, holding, and disposing of real and personal property used in the agreement;

(8) the minimum standards for law enforcement personnel implementing the provisions of the agreement;

(9) the respective liability of each party to the agreement for the actions of law enforcement officers when acting under the provisions of the agreement;

(10) the minimum insurance required of each party to the agreement;

(11) the exact chain of command or delegation of authority to be followed by law enforcement officials acting under the provisions of the agreement;

(12) the precise enforcement authority that the peace officers of each party law enforcement agency may exercise; and

(13) any other necessary and proper matters.

Section 6. Right of state in actions involving agreements. In any case or controversy involving performance or interpretation of or liability under a mutual aid agreement entered into between one or more law enforcement agencies of political subdivisions of this state and one or more law enforcement agencies of another state or of the United States, the parties to the agreement are the real parties in interest. This state may maintain an action against any law enforcement agency whose default, failure, performance, or other conduct caused or contributed to any liability incurred by this state.

Section 7. Agreement not to relieve agency of duties. No agreement made under [sections 1 through 12] may relieve any law enforcement agency of this state of any duty imposed upon it by law. Timely performance of such a duty by a joint board or other legal or administrative entity created by a mutual aid agreement may be offered in satisfaction of the duty.

Section 8. Limitation of powers. Except for the right granted by [sections 1 through 12] to jointly exercise powers, [sections 1 through 12] do not authorize any law enforcement agency of this state to exercise any power that it is not otherwise authorized to exercise.

Section 9. Submission of agreement to attorney

general. (1) As a condition precedent to an agreement becoming effective under [sections 1 through 12], the agreement must be submitted to and receive the approval of the attorney general of Montana.

(2) The attorney general shall approve an agreement submitted to him under [sections 1 through 12] unless he finds that it is not in proper form, does not meet the requirements set forth in [sections 1 through 12], or otherwise does not conform to the laws of Montana. If he disapproves an agreement, he shall provide a detailed, written statement to the governing bodies of the party law enforcement agencies.

(3) If the attorney general does not disapprove an agreement within 60 days after its submission to him, it is considered approved by him.

Section 10. Filing of agreement. Within 20 days after approval by the attorney general, an agreement made pursuant to [sections 1 through 12] must be filed in the office of:

(1) each clerk and recorder of each county of this state where the principal office of one of the parties to the agreement is located; and

(2) the secretary of state.

Section 11. Authorization to appropriate funds for purpose of agreement. Any law enforcement agency of this state may appropriate funds for and may sell, lease, or

otherwise supply material to any entity created for the purpose of performance of an agreement and may provide such personnel or services therefor as are within its authority to furnish.

Section 12. Effect of other law. The procedures and remedies provided in [sections 1 through 11] apply to the exclusion of those remedies and procedures for interlocal agreements generally under Title 7, chapter 11, part 1.

Section 13. Effective date. This act is effective on passage and approval.

-End-

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 17, 1983

The forty-fifth meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage, at 10:02 a.m., on March 17, 1983, in Room 325, State Capitol.

ROLL CALL: All members were present with the exception of Senator Crippen whose absence was excused.

CONSIDERATION OF HOUSE BILL 629: Representative Brown submitted written testimony (see attached Exhibit "A") stating that the reason the bill has been proposed is that a question has been raised concerning how changes made in the election laws in 1979 have affected the law governing the submission of ballot issues by the Legislature to the people. Representative Brown stated that HB629 is a simple bill and asked the Committee for a favorable consideration.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 857: Representative Abrams stated that HB857 is a feasible approach to law enforcement problems and provides for cooperation with law enforcement agencies in neighboring states.

PROPONENTS: Col. R. W. Landon, representing the Montana Highway Patrol, submitted written testimony, (see attached Exhibit "B"). Mr. Landon stated that some of the areas where law enforcement officials run into problems are Cooke City, Lolo Pass and Decker, Montana. These areas are under Montana jurisdiction; however, they are more accessable to law enforcement officials of other states. This bill would provide Montana with the ability to enter into legal contracts with these other states to provide emergency services to areas such as the aforementioned. Mr. Landon feels that mutual aid will help make the best use of a scarce resource. Mr. Landon informed the Committee that the New England states have already utilized a measure such as HB857. He asked the Committee for favorable consideration.

There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

Upon question from Senator Berg, Mr. Landon informed the Committee that Wyoming was very interested in entering into such an agreement with Montana.

There being no further questions from the Committee, the hearing was closed.

ACTION ON HOUSE BILL 857: Senator Daniels moved that HB857 BE CONCURRED IN. His motion carried unanimously.

ACTION ON HOUSE BILL 825: Ward A. Shanahan and Patrick Smith submitted to the Committee their proposed amendments to HB825. It was agreed by theCommittee to change some of the language in the amendments. Senator Galt moved that the amendments as proposed by Mr. Shanahan and Mr. Smith and as modified by the Committee BE ADOPTED. This motion carried unanimously. Senator Berg moved that HB825 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 179: Senator Berg moved to reconsider HB179. This motion carried unanimously. Senator Berg then moved to reconsider adopting the Committee's amendments to HB179. This motion carried unanimously. Senator Berg then moved that HB179 BE CONCURRED IN. This motion carried unanimously.

There being no further business to come before the Committee, the meeting was adjourned at 11:10 a.m.

Jean A. Turnage

JEAN A. TURNAGE, Chairman

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983 Date 3/17/83

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)			✓
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

Each day attach to minutes.

Exhibit "B"

S.J. 10AM
3-17-93

TESTIMONY OF COLONEL R. W. LANDON

CHIEF ADMINISTRATOR, HIGHWAY PATROL

H.B. 857

House Bill 857 authorizes Montana law enforcement agencies to enter into cooperative agreements with law enforcement agencies in other states to solve common enforcement problems. It is enabling legislation which allows a flexible approach to enforcement problems transcending jurisdictional boundaries.

A major benefit of this legislation is to be found in the authority it would grant to regional or state law enforcement agencies such as county sheriffs' offices and the Highway Patrol to cooperate with law enforcement agencies of bordering states to provide a coordinated, efficient plan for responding to enforcement emergecies in remote border areas of the state.

Montana law currently allows state and local law enforcement agencies within the State of Montana to assist other Montana law enforcement agencies. Title 44,ch. 11, pts. 1 and 2, MONTANA CODE ANNOTATED (MCA). It does not, however, authorize cooperative agreements with, assistance to, or assistance from lawenforcement

agencies of other states. H.B. 857 would supply that authorization.

The bill does not itself spell out specific provisions to be incorporated into every mutual aid agreement. It does, however, spell out the specific general areas of agreement upon which participating law enforcement agencies must negotiate and which they must provide for. Section 5 of the bill requires that the parties bargain with each other and make specific provision for the duration, organization, chain of command, and scope and termination of joint operations as well as for the enforcement authority and qualification level of participating law enforcement officers, responsibility for expenses, and the respective liability of each agency for damages or injury caused by joint operations.

In allowing the parties to negotiate the specifics of a cooperative agreement rather than imposing specific provisions on the parties, the bill attempts to guarantee flexibility to various state and local law enforcement agencies to tailor agreements to local needs and to situations that cannot be easily anticipated today. In this regard, H.B. 857 follows the model of Montana's State-Tribal Cooperative Agreements Act (Title 18, ch. 11, pt. 1, MCA) and the state Interlocal Cooperation Act (Title 7, ch. 11, pt. 1, MCA). Like

those two acts H.B. 857 requires contracting agencies to set forth fully in writing the powers, rights, obligations, and responsibilities of each party to the agreement. It provides for review and approval of agreements by local governing bodies and by the attorney general. In addition, it directs that all such agreements be filed with the secretary of state and, in the case of an agreement entered into by a local law enforcement agency, with the clerk and recorder of each affected county.

H.B. 857 would allow the Montana Highway Patrol to enter into an agreement with the highway patrol forces of bordering states whereby a patrol officer of one state would be authorized to respond to a traffic emergency across the border in a neighboring state if that officer could respond more quickly than officers of the neighboring state. Reciprocal ageements of that type would decrease response time and make efficient use of resources without increasing the operating budgets of the law enforcement agencies involved.

Section 8 of the bill prohibits law enforcement agencies from exercising any powers under a mutual aid agreement that they are not otherwise authorized by law to exercise. The Montana Highway Patrol is, by statute, limited to traffic control. Under H.B. 857 it could not expand its powers beyond the area of traffic enforcement.

In explicit terms the "Compact Clause" (art. I, §10, cl. 3, U.S. CONST.) of the Federal Constitution forbids any state of the Union, without the consent of Congress, to enter into any agreement or compact with another state. Congress has given its advance consent by statute to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and the enforcement of their respective criminal laws and policies. 4 U.S.C. §112.

Under cases decided by the United States Supreme Court, the meaning of interstate compacts is a question of federal law. It cannot be unilaterally nullified nor be given its final meaning by a court or other organ of the contracting states. West Virginia ex. rel.Dyer v.Sims, 341 U.S. 22 (1951). Final power to pass on the meaning and validity of an interstate compact is the United States Supreme Court.

Similarly, a state and the United States may enter into compacts. The authority for a state to enter into a contract with the United States is derived from the Constitution of the United States. ANTLE v. TUCHBREITER, 414 Ill. 571, 111 NE2d 836 (1953).

Section 6 of the bill provides for the state to be indemnified if it incurs liability due to the conduct of a local law enforcement agency that has entered into a mutual aid agreement with an out-of-state agency.

STANDING COMMITTEE REPORT

March 17, 19 83

MR. President

We, your committee on Senate Judiciary

having had under consideration House Bill No. 857

Respectfully report as follows: That House Bill No. 857

DO ~~PASS~~

BE CONCURRED IN

JEAN A. TURNAGE Chairman.

STATE PUB. CO.
Helena, Mont.

33

4/C

That HB 786 be indefinitely postponed. Motion carried as follows:

Ayes: Aklestad, Berg, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Halligan, Hammond, Himsl, Keating, Kolstad, Marbut, Mazurek, Norman, Ochsner, Severson, Shaw, Smith, Stimatz, Story, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 34

Noes: Blaylock, Eck, Haffey, Jacobson, Lane, Lynch, D. Manning, R. Manning, Mohar, Regan, Towe.
Total 11

Excused: McCallum.
Total 1

Absent or not voting: Hager, Hazelbaker, Lee, Thomas.
Total 4

HB 807 - That HB 807 be concurred in. Motion carried as follows:

Ayes: Aklestad, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lynch, D. Manning, R. Manning, Marbut, Mazurek, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 45

Noes: None.
Total 0

Excused: McCallum.
Total 1

Absent or not voting: Berg, Hager, Lee, Thomas.
Total 4

HB 857 - That HB 857 be concurred in. Motion carried as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 49

Noes: None.
Total 0

Excused: McCallum.
Total 1

Absent or not voting: None.
Total 0

HB 567 - That HB 567 be segregated from the Committee of the Whole report. Motion carried as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker,

3rd Reading

Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 49

Noes: None.
Total 0

Excused: Brown.
Total 1

Absent or not voting: None.
Total 0

HB 857 concurred in as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 49

Noes: None.
Total 0

Excused: Brown.
Total 1

Absent or not voting: None.
Total 0

At the request of the President, and without objection, the Senate reverted to Order of Business No. 8.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Hazelbaker moved that the Senate resolve itself into a Committee of the Whole, for the consideration of business on second reading. Motion carried. Senator Goodover in the Chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 26 - That House amendments to SB 26 be concurred in. Motion carried as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 49

Noes: None.
Total 0

Excused: Brown.
Total 1

35

HOUSE BILL NO. 857

INTRODUCED BY ABRAMS, SPAETH, PAVLOVICH

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUTUAL AID AGREEMENTS AMONG LAW ENFORCEMENT AGENCIES OF THIS AND OTHER STATES AND THE UNITED STATES; SPECIFYING AUTHORITY OF LAW ENFORCEMENT OFFICERS AND AGENCIES; CLARIFYING THE EFFECT OF AGREEMENTS ON LEGAL DUTIES OF LAW ENFORCEMENT AGENCIES; PROVIDING FOR APPROVAL AND FILING OF AGREEMENTS; AUTHORIZING AGENCY COMMITMENT OF FUNDS, PERSONNEL, AND EQUIPMENT FOR PURPOSES OF AGREEMENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 12] shall be known and may be cited as the "Interstate Law Enforcement Mutual Aid Act".

Section 2. Purpose. It is the purpose of [sections 1 through 12] to permit one or more law enforcement agencies of this state to enter into mutual aid agreements, on the basis of mutual advantage, with one or more law enforcement agencies of any other state or the United States in order to facilitate and coordinate efficient, cooperative enforcement efforts directed at mutual law enforcement problems transcending jurisdictional boundaries and to insure the prompt and effective delivery of law enforcement and emergency services in areas that, due to geographic remoteness, population sparsity, and economic and other factors are in need of an increased law enforcement presence.

Section 3. Definitions. When used in [sections 1 through 12], unless the context requires otherwise, the following definitions apply:

(1) "Law enforcement agency" means a public agency lawfully established by statute or executive order that is responsible for the prevention and detection of crime and the enforcement of penal, traffic, regulatory, or game laws.

(2) "Law enforcement agency of this state" or "law enforcement agency of another (or any other) state" includes, respectively, a law enforcement agency of a political subdivision of this state and a law enforcement agency of a political subdivision of another state.

(3) "Mutual aid agreement" or "agreement" means an agreement between two or more law enforcement agencies, consistent with the purposes of [sections 1 through 12].

(4) "Party law enforcement agency" means a law enforcement agency that is a party to a mutual aid agreement as set forth in [sections 1 through 12].

(5) "Peace officer" has the meaning as the term is

REFERENCE BILL

defined in 46-1-201.

Section 4. Authorization to enter agreement -- general content -- authority of peace officer. (1) Any one or more law enforcement agencies of this state may enter into a mutual aid agreement with any one or more law enforcement agencies of any other state or the United States to provide the law enforcement or emergency services that all of the parties are authorized by law to perform. If required by applicable law, the agreement must be authorized and approved by the governing body of each party to the agreement.

(2) The agreement must fully set forth the powers, rights, and obligations of the parties to the agreement.

(3) Subject to [section 8], a mutual aid agreement may grant a peace officer of any party law enforcement agency acting within the territorial jurisdiction of any other party law enforcement agency authority to act as if he were a duly appointed and qualified peace officer of the law enforcement agency he is assisting.

Section 5. Detailed content of agreement. The agreement authorized by [section 4] must specify the following:

(1) its duration;

(2) the precise organization, composition, and nature of any separate legal entity created thereby;

(3) the purpose of the agreement;

(4) the manner of financing the agreement and establishing and maintaining a budget therefor;

(5) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(6) provision for administering the agreement, which may include creation of a joint board responsible for such administration;

(7) the manner of acquiring, holding, and disposing of real and personal property used in the agreement;

(8) the minimum standards for law enforcement personnel implementing the provisions of the agreement;

(9) the respective liability of each party to the agreement for the actions of law enforcement officers when acting under the provisions of the agreement;

(10) the minimum insurance required of each party to the agreement;

(11) the exact chain of command or delegation of authority to be followed by law enforcement officials acting under the provisions of the agreement;

(12) the precise enforcement authority that the peace officers of each party law enforcement agency may exercise; and

(13) any other necessary and proper matters.

Section 6. Right of state in actions involving agreements. In any case or controversy involving performance or interpretation of or liability under a mutual aid agreement entered into between one or more law enforcement agencies of political subdivisions of this state and one or more law enforcement agencies of another state or of the United States, the parties to the agreement are the real parties in interest. This state may maintain an action against any law enforcement agency whose default, failure, performance, or other conduct caused or contributed to any liability incurred by this state.

Section 7. Agreement not to relieve agency of duties. No agreement made under [sections 1 through 12] may relieve any law enforcement agency of this state of any duty imposed upon it by law. Timely performance of such a duty by a joint board or other legal or administrative entity created by a mutual aid agreement may be offered in satisfaction of the duty.

Section 8. Limitation of powers. Except for the right granted by [sections 1 through 12] to jointly exercise powers, [sections 1 through 12] do not authorize any law enforcement agency of this state to exercise any power that it is not otherwise authorized to exercise.

Section 9. Submission of agreement to attorney

general. (1) As a condition precedent to an agreement becoming effective under [sections 1 through 12], the agreement must be submitted to and receive the approval of the attorney general of Montana.

(2) The attorney general shall approve an agreement submitted to him under [sections 1 through 12] unless he finds that it is not in proper form, does not meet the requirements set forth in [sections 1 through 12], or otherwise does not conform to the laws of Montana. If he disapproves an agreement, he shall provide a detailed, written statement to the governing bodies of the party law enforcement agencies.

(3) If the attorney general does not disapprove an agreement within 60 days after its submission to him, it is considered approved by him.

Section 10. Filing of agreement. Within 20 days after approval by the attorney general, an agreement made pursuant to [sections 1 through 12] must be filed in the office of:

(1) each clerk and recorder of each county of this state where the principal office of one of the parties to the agreement is located; and

(2) the secretary of state.

Section 11. Authorization to appropriate funds for purpose of agreement. Any law enforcement agency of this state may appropriate funds for and may sell, lease, or

otherwise supply material to any entity created for the purpose of performance of an agreement and may provide such personnel or services therefor as are within its authority to furnish.

Section 12. Effect of other law. The procedures and remedies provided in [sections 1 through 11] apply to the exclusion of those remedies and procedures for interlocal agreements generally under Title 7, chapter 11, part 1.

Section 13. Effective date. This act is effective on passage and approval.

-End-

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